
ICANN76 | CF – Joint Session: ICANN Board and GAC
Tuesday, March 14, 2023 – 15:00 to 16:00 CUN

GULTEN TEPE: Welcome, everyone. We will be starting shortly. Please be seated. Thank you. Welcome to the ICANN76 GAC meeting with the ICANN Board session being held on Tuesday, 14th of March at 15:00 local time.

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MANAL ISMAIL:

Thank you very much, Gulten. And good morning, good afternoon and good evening, everyone. Welcome to the Board-GAC bilateral. I would like to start by welcoming all Board members in the GAC room and welcome all participants in the room and on Zoom. The GAC continues to appreciate and value our regular exchange with the Board at ICANN public meetings. We have an hour for this meeting, and have identified five issues. The GAC would like to discuss with the Board, of course, in addition to the Board's question to the GAC. But before we get started, I would like to hand the floor over to ICANN Board Chair Tripti Sinha for any opening remarks. Tripti if you may.

TRIPTI SINHA: Thank you, Manal. As always, it's a pleasure for the Board to be here. These bilateral meetings are very, very important for constructive healthy dialogue and the exchange of ideas and to arrive at common ground. So we really appreciate you giving us a few minutes of your time this afternoon. And before I turn this back to Manal, I'd like to say Manal, this is our last bilateral meeting with you as chair.

And I must say thank you for allowing Manal to be our liaison to the Board. She has given so much of her time. She has been invaluable. Her contributions have been very deep and very insightful. And she's been a fantastic member of the Board. So thank you very much, Manal, for everything you've done. You will be missed.

MANAL ISMAIL: Thank you, Tripti. So we need someone else to moderate. So the for agenda today, I have asked permission from the Board that we dedicate only 10 minutes for the Board's question to the GAC and then dedicate the rest of the time to our questions to the Board as we have already identified the long list. We tried to make it shorter. I hope it would fit in the 45 minutes. If we can go to the following slide, please.

So this is your question to the GAC on how to explore, how to combine the efficiency of an agile approach to problems solving like

the Council's small teams, with the need for accountability and transparency, when would such an approach be most appropriate? And how can we ensure that it does not circumvent required steps in a policy development process?

If we go to the next slide, please. We have identified some quick responses to this. So basically, agile approaches are useful in particular and limited circumstances, but should not be viewed as regular substitutes for an effective and ongoing use of traditional PDPs. And given the limited size, overall PDP responsibilities should not be delegated to such groups. The use of GNSO small teams is a useful exercise in that it provides useful impetus for initial community discussions. The makeup of those teams, however, are heavily populated by GNSO representatives which can serve to foreclose this course on complicated issues. It would be beneficial if other ACs and SOs could be invited to take part in such groups.

And finally, a facilitated community dialogue approach such as that for close generics provides a more productive approach to community dialogue. And we believe that the Board should consider making this type of facilitated dialogue even more open and transparent to communities. So for example, it's not necessary to every time have a Chatham House rules. So to wrap up, we think such groups should have a narrow scope, be a very short term, not delegated PDP responsibilities, and their outputs should ultimately consider community input and feedback in PDPs. Any follow-up

from GAC colleagues? So I hope I reflected our agreed comments, and I hope you find this response useful.

And now moving to the GAC questions to the Board, if we can go to the following slide, please. So this is the list of topics we have identified basically new gTLD subsequent rounds, DNS abuse mitigation, WHOIS Disclosure System, ICANN's emergency assistance program and finally curative rights protections for IGOs. And going to the following slide and our first topic on new gTLD subsequent rounds. So the GAC has taken note of the Board's planned approach to handle the outputs from the GNSO SubPro PDP final report, especially issues identified as pending subject to further dialogue with the GNSO Council.

And would like to draw the Board's attention to the GAC's collective comment to the Board consultation on final recommendations of the SubPro, which includes many issues now identified as pending by the Board. And this includes the Registry Voluntary Commitments and the Public Interest Commitments, applicant support, GAC consensus advice and GAC early warnings, community applications, and Auctions.

If we can go to the next slide, please, and this is the questions. The GAC would like to ask the Board first, are the GAC positions on the above mentioned issues beyond GAC consensus advice and early

warnings being taken into account by the Board? And how will the GAC be involved in the forthcoming dialogue on these issues?

And lastly, if the Board does not adopt the all recommendations from the GNSO, how will such decisions impact the overall implementation time frame for SubPro going forward? And of course, as noted below, we would very much welcome being included in such a forthcoming dialogue and may consider providing a GAC advice on some of the mentioned topics. Thank you.

TRIPTI SINHA: Thank you, Manal, for the question. I'm going to turn this over to Avri. Avri, you have the floor.

AVRI DORIA: Thank you. Avri Doria speaking. So thank you for the questions. I think first of all, let me look at them. Question one, yes, the GAC points of view are being taken into the point of view. And I think that part of the reason some of the questions that are pending are pending is because we are taking the advice of GAC, the advice of ALAC, the advice of SSAC, the advice of all of those that have made comments on those into account and want to make sure.

And I think as part of that to say how will GAC be involved in it is what was sort of put forward at the panel that we had on Saturday, which I'm sure many of you didn't have a chance, and that there's

really an intention to have discussions with all of those who put out comments and to bring those things together.

So while the Board will be working with the GNSO's small team to the extent that we can, the extent that it's working, we'll also be making it a point to talk to those who have given advice and to make sure that that can be sort of brought together and taken into account.

Now, the last one is, I have a harder time knowing what to answer. I think that if there are things that the Board ends up rejecting, I think we'll be going through a long enough process and that none of those are really the issues that are driving the length of time it will take. As you see, we've talked about it some through today that there's going to be a fair amount of time in a lot of these processes. There's a lot of work that still needs to be done, for example, on the closed generic consultation. And then that ends, and then there's a process us after that.

So there is going to be a fair amount of time to talk about anything that might impact. I can't think of anything that the Board is thinking of rejecting that might, and we're not even that close to thinking of how many things would be. But I can't think of a single one that would necessarily drive the procedures, the new round to have to take longer. And so it's hard for me to say with any sort of certainty. But no, it won't cause a delay, but I don't see how.

And I really don't have a concept at the moment of things that are both of a critical decisional basis and a scheduling basis that are in conflict, if that makes sense to people. But yes, there is very much an intention to make sure that we talk to everyone that's got an issue, that's got advice, that's got certainly that has GAC advice in terms of making sure that it is completely and properly dealt with.

MANAL ISMAIL:

Thank you very much, Avri. I'm pausing to see if there are any follow-up from GAC colleagues. Any comments or questions? And I see a hand up in the Zoom room, Switzerland, please. Jorge, go ahead.

JORGE CANCIO:

Thank you. Thank you very much, Manal, and thank you very much, Avri. I welcome very much that you are going to involve us in these further discussions. I just want to note just to be very clear is that the GAC collective comment we were mentioning is not GAC consensus advice with capital letters. But it summarizes the positions of the GAC on these open and unresolved issues, where by the way, that collective comment matches very well all the open and unresolved issues that you have now before yourselves.

So this is to say that please take that collective comment into account, consider it as if it were advice with capital letters in the sense of including us in the conversations. Because otherwise, the alternative is, of course, to elevate those issues into GAC consensus

advice, but that would open up roads of procedural complication that we may want to avoid. Things are complicated in us, what we want is that you take our inputs seriously, that we discuss about those inputs. And whenever you are going to take a decision on those open and unresolved issues that you talk to us on those. So just to clarify this. Thank you.

AVRI DORIA:

Thank you, Jorge. Or thank you Switzerland. Thank you. I think for certain that we will take all of those into account as we're moving forward, as we have up until now. And I certainly am not in a position of wanting to tempt fate. So we will certainly make it a point. Thanks.

MANAL ISMAIL:

Thank you very much, Jorge, and thank you very much, Avri. I don't see any further requests for the floor. So I think we're good. I'm sorry. Iran, please, Kavouss, go ahead.

KAVOUSS ARASTEH:

Thank you very much. Good afternoon distinguished Board members. Good morning, good afternoon, good evening, everybody else. I understand that what have you said, which I fully agree.

MANAL ISMAIL: Kavouss, if you may speak closer to the mic, please?

KAVOUSS ARASTEH: Yes. I understand what Avri said is nothing will be rejected, but it takes time to understand that and to implement that.

AVRI DORIA: I did not say necessarily that nothing will be rejected. What I said is, at the moment, there is nothing that is planned for rejection.

KAVOUSS ARASTEH: Yes, that is very diplomatic answer you have given.

AVRI DORIA: I have learned after many years of speaking.

KAVOUSS ARASTEH: I am not a diplomat, but diplomatic answer is given many, yeah, so I think. What I understand that this process will be more or less in sort of incremental implementation because you cannot in a lump sum to do everything and so on to forth. The reading is quite clear. If you allow me sometimes at the end of this, I come to that issue, incremental, and that is that. Thank you.

MANAL ISMAIL:

Thank you very much, Kavouss and Avri. And now seeing no further request for the floor, I think we're good to move on to the second topic on further developments on DNS abuse mitigation. And so the GAC appreciates more regular reporting updates from the ICANN org regarding implementation of CCT review recommendations, and we have here some references.

And the question or pursuant to the GAC Montréal advice not to proceed with the new round of gTLDs until after the complete implementation of the CCT review recommendations identified as prerequisites or as high priority, including recommendations pertaining to DNS abuse.

Can the Board share its view of the role of ongoing ICANN org negotiations with contracted parties with respect to CCT review recommendations 14 and 15, and whether the negotiations will satisfy these recommendations? And when can implementation be expected on CCT review recommendation 22, which requires engagement with stakeholders to discuss best practices implemented to offer appropriate security measures when dealing with sensitive information such as health or financial matters? Thank you.

TRIPTI SINHA: Thank you, Manal. As you know, DNS abuse mitigation, as you cite, so accurately was first put on the forefront of ICANN's psyche in Montreal. This is a very important topic. Lots of progress has been made on this. So as a response to your question, Avri will respond to the CCT part of the question and then turn it over to me. I'll give you a preamble to what's going on with the contract negotiations and then turn it over to Becky. Avri, over to you.

AVRI DORIA: In briefly, basically, if you look at some of the tables that have been put together about the advice and all of this advice, including those necessary CCT requirements, are listed as things that need to be resolved before an application guidebook can come out. So they're not listed as before this initial decision as we work through, but they are included in the set of things that need to be completed before we can come out with an application guidebook, which I believe meets the requirement of before another round could happen.

TRIPTI SINHA: Thank you, Avri. And coming to the contract negotiations, lots of progress has been made. We are at a point where the negotiations are leading to contractual obligations where the contracted parties will be obligated to disrupt and mitigate any efforts that they see, which amounts to DNS abuse. This now forces their hand and also enables ICANN to ensure that such an environment doesn't exist.

In other words, it gives compliance a tool to negotiate or talk to the contracted parties if they believe that abuses not been mitigated or disrupted. This also sets the stage for subsequent policy development which will be more prescriptive in how to mitigate abuse. So this is a significant progress that's been made. And with that context, I'd like to turn it over to Becky.

BECKY BURR:

Thank you, Tripti. Good afternoon, everybody. It's always wonderful to be here with the GAC. I think Tripti has made it clear that these contract negotiations with respect to DNS abuse that came to org, came to the Board, through an initiative of the contracted parties, they came to the table and said we are ready and willing to negotiate specific contract changes to address the most commonly heard complaint about the contracts which is there is no enforcement mechanism. There is no requirement to mitigate.

So as Tripti said, this will provide an enforcement handle for ICANN compliance. But it is very much the first step in the process. It's a very significant step, but it's very much the first step in the process. Because it will then enable sort of very strategic micro policy development through the community to elaborate on how contracted parties are required to mitigate and intervene to prevent abuse in the areas that have been designated. And we very much expect that there will be a follow on policy development processes involving the entire community as those generally are.

The other thing is even with those policy development process, we do not anticipate that this is the end of the road. We think that if we have established an environment of trust where the contracted parties feel like they can come to the table with negotiations and we can meet them where they are and move forward, they may take additional steps, they may bring additional initiatives forward with respect to that.

In addition, and the goes back to the recommendations 14 and 15, there will be new registry agreements and registrar accreditation agreements in the context of the new round of the SubPro round of new gTLDs. And as has always been the case, those contracts are negotiated between the parties, but they are the subject of community comment, and community input, and community review. So I think the answer to, does this satisfy recommendations 14 and 15, this is an incredibly important and significant first step. It is not the only opportunity to address those recommendations.

MANAL ISMAIL:

Thank you very much, Avri, Tripti and Becky. I have two requests for the floor first, Iran and then UK. Iran, please go ahead.

KAVOUSS ARASTEH:

Thank you very much for the explanation. If we are talking of DNS abuse, which has been on the table of the community for years, does the Board believe that successful result of negotiations with

registrar and registry would put an end to the DNS abuse or that contribute to the litigation. There are other elements that need to be taken into account. There are other actions need to be performed and need to be executed. Today, two distinguished countries provided the report of the abuse. But it's from these two. And when we say reporting the abuse, there are many abuses which are not recorded. Because the people they don't know how to report, to whom they report, and so on so forth. I give an example, a personal example. I myself, I faced with so many of this, but they have not reported. So this reporting is not the end of everything. It is among those.

So how we could encourage and facilitate the reporting, providing ways and means how this report is made, to whom will be made of what is it. And then where all these report will go? Who will analyze this? And what do the actions? So in my personal view, the negotiations even successfully done does not resolve totally the issue of DNS abuse. Still there are something.

But in that sense, I'm sorry, we said this morning we need to request distinguished Board member to provide some progress report or progress activities between now and the next, and then at the end a full report and procedures how we the GAC members or other person or the people community expected to react on that. This is the thing that I would like to make at this stage. Thank you.

TRIPTI SINHA: Thank you for your comment. I'd like to say broadly that when it comes to cyber abuse, one will never eliminate it. I think we can certainly disrupt it and mitigate it and find ways to curtail it. So this is a significant step forward. I don't think anyone can claim in absolute terms that crime of any kind will be gone. So this will probably continue in some shape or form, but we are making every effort to mitigate it. And hopefully, in time, as we do reporting, the numbers will come down, and we will see the results of our efforts. So thank you, Kavouss, for your comment.

BECKY BURR: I think it's also important to note that there's a multifaceted effort going on. So the industry itself has stood up on the DNS abuse institute, which has NetBeacon, which receives and processes complaints about abuse. It is intended to be available globally. So it's not just what ICANN's doing. There are some things that industry is doing outside of that that are intended to be additive to the work at ICANN.

MANAL ISMAIL: Thank you very much, Tripti and Becky. I have UK next. Please, Nigel, go ahead.

NIGEL HICKSON:

Yes, thanks very much. Nigel Hickson, UK GAC, and many thanks indeed to the board for addressing us today and addressing these comments in particular. I just really wanted to make two remarks. The first is that, despite the drafting of number four, and I take some blame for that, we are in no way sort of questioning the contract negotiation process in any sense, and we were very delighted.

We spoke to the registries and registrars as you know, yesterday, and they were open and transparent, and we look forward to the further dialogue and the public consultation ahead of the next meeting. Our sole intention and the response of the board to the question, as I think answered a lot of our questions is just that if you'd like on a process point, as you know, we offered GAC advice on a number of points, and Avri mentioned some of them on the CCT review, and that.

I suppose it's just a reflection that we want to ensure that there's no misunderstandings in the future when we get to the end, and we say, oh, hold on, we haven't done X, we haven't opened that door, or we haven't, but it does seem that we're all working together on these issues, so it's very profitable indeed.

And as Becky just mentioned, we were also delighted, certainly the UK are delighted to be able to be working with the internet and jurisdiction policy network on these issues and DNS abuse institute.

And there's a lot of activity both inside and outside ICANN. So thank you very much.

MANAL ISMAIL:

Thank you very much UK. And seeing no further requests for the floor, I think we're good to move to the following slide, and it's on the same topic, but on contract negotiations. So ICANN and contracted parties have been negotiating improved DNS abuse contractual provisions, and the GAC understands that ICANN plans to publish proposed changes for community review on public comment before ICANN77.

In the Hague communique, the GAC recalled that ICANN Org is well placed to receive public policy input from the community and negotiate updates to the registry-registrar agreements. So ICANN Org may avail itself of timely community input and to promote transparency. The Board could hold a listening session on the contract negotiations prior to the publication of proposed changes for public comment.

And such session would focus on matters within the scope of the negotiations as agreed between ICANN and the contracted parties. And the GAC question is, "Will the board consider organizing a listening session on the DNS abuse negotiations within one month of the conclusion of ICANN76?"

TRIPTI SINHA: Becky will respond to this one. Thank you.

BECKY BURR: Thank you very much. As indicated, the contract negotiations are moving along and they are going well. As is always the case, the results of those negotiations, the proposed amendments to the contract will be posted for public comment. The Board has discussed this, and it seems that it would be appropriate at that time after the contracted parties and ICANN have reached agreement on a proposed text and it goes out for public comment that there could be public sessions.

And we would hope that the focus of those public sessions would actually be next steps. How do we get to the policy development processes, the follow-on policy development processes that we have the opportunity once those contracts are amended to dig into and provide greater change?

So the answer is, the entire community will have an opportunity for public comment, and we also will have sessions on it after the conclusion of the negotiations, but before the contracts are signed. But the purpose of the open sessions would really be to move forward with the next steps in this process.

MANAL ISMAIL: Thank you very much, Becky. And I see no -- yes, please. Iran, go ahead.

IRAN: Thank you for your explanation. I have a simple question. Once it gets public, and you will receive a lot of feedbacks and important, maybe comments, then you will even renegotiate it again, what will happen?

BECKY BURR: So the contracts go out for public comment as a matter, of course, and the comments come in, and they are considered, and if the comments came up with an objection that was overwhelming in the board's view that undermined the legitimacy of the contract negotiations at that point?

Sure, we would have to step back if you pointed out something's not in the public interest. It is a contract negotiation between the contracted parties. The point of the consultation is to see if there are any showstoppers, not really to reopen negotiations on every topic.

Just to be clear, Org made a commitment when the contracted parties came to the table about the scope of the negotiations, and we do intend to honor that commitment, because those were the

terms on which the contracted parties made their commitments. So that's why we have the public comments.

But we could reopen it for renegotiation, and we could add a bunch of different stuff in that we want to negotiate about because I'm sure there are going to be lots of things that people are going to say as Nigel has said, you've got the apples and the pears, but not the bananas, we're going to hear that, we understand that.

The problem is, any kind of extended negotiation on things that are outside of the scope, aside from breaking trust, will delay the time in which we capture the benefits of the contract amendments. So yes, the consultations are real in the sense that if there's a showstopper, if you point out something that says you're violating ICANN bylaws, or you've missed something profound, they're real in that sense, the Board does take that on board. But we really would like to capture the benefit of the contract amendments and move forward from there to catch up on all of Nigel's bananas.

MANAL ISMAIL:

Thank you very much, Becky. And I see no further requests for the floor. And I think we're good to move on to the following slide, please. And we are on a new topic now. The WHOIS Disclosure System, and first on law enforcement requests. So the Board's recent resolution from 27 February on WHOIS Disclosure System Implementation included a reference to law enforcement requests.

Mentioning that the ICANN Board encourages the GNSO council to consider how best to promote and secure comprehensive use of the system by ICANN accredited registrars for all data access requests other than those submitted by law enforcement or as otherwise required by applicable law. And I will not read every single word, but this in particular raised the following question: "This could be rent to suggest that law enforcement requests are excluded from the WHOIS Disclosure System. Was that the Board's intent, and if not, we suggest that the Board issue a written clarification so that there is no unintended confusion?" Thank you.

TRIPTI SINHA: Thank you, Manal. I'm going to turn this back to Becky, again.

BECKY BURR: Thanks for the question. It was absolutely not the intention of the Board to exclude law enforcement from use of the WHOIS or the registration data request system. This provision merely acknowledges that in cases where law enforcement comes with a warrant, for example, they're going to come up with a warrant and registries and registrars are going to be required by law to respond to those directly.

So a registry is not going to be required to say to law enforcement with a warrant, would you please put your warrant in through the registration data request system? That's all that was meant there.

If a written clarification on that as needed, we're happy to provide that, but this was intended to acknowledge that there are situations where registries and registrars must comply with law, and that could preclude use of that system.

MANAL ISMAIL: Thank you very much, Becky. I'm pausing to see if there is any requests for the floor. And I see Laureen, co-chair of the GAC Public Safety Working Group. Please, Laureen, go ahead.

LAUREEN KAPIN: Thank you. And I'm speaking in that capacity. A written clarification would be helpful for archeological digs in the transcripts, so not required, and it's just clear on the record, and it's very reassuring to hear that it makes sense, it just would be great to have it in writing.

MANAL ISMAIL: Thank you very much, Laureen. And thank you, Becky, for confirming. I see no further requests for the floor. And I think we're good to move on to the following slide. And, again, under the subtitle of features to be built into the WHOIS Disclosure System. And the next question reads, "The GAC also deemed important to properly log information about approvals or denials of requests, timing of the response, and reasons for denial, and to include a mechanism to allow for confidential law enforcement requests. Will

these features be built into the system?" And I think the following question is also relevant.

So the rationale of the ICANN Board resolution on the WHOIS Disclosure System states that ICANN Org is prepared to incorporate requests from the community into the system, additional system logging functionality to log data associated with requests attempted for non-participating registrars that have been identified as low risk to data subjects and system security. Does this mean this additional logging functionality will be incorporated in the WJOIS Disclosure System once it becomes operational in 11 months?" Thank you.

TRIPTI SINHA: Is Elisa here?

YUKO YOKOYAMA: Actually, Elisa could not make it, but I'm here on behalf of her.

TRIPTI SINHA: I'm sorry, I can't see who responded. Okay, that's good. First, before I turn it over to Yuko, the Board did approve the implementation of the system that is currently being implemented, and I'm actually going to turn this over to ICANN Org, the team which is responsible for this. Thank you. Yuko. I turn it over to her.

YUKO YOKOYAMA:

Thank you. My name is Yuko Yokoyama, and I lead the implementation team for the system called registration data request service, which is formally known as WHOIS Disclosure System. So for the first question about the logging, ICANN Org wrote to the GNSO small team to identify what data needs to be reported throughout the operation of the system. And this includes everything that's been asked right here, which is the information about approvals or denial of requests, timing of the response, and reasons for denial, and there are many more, and those are all specified within the addendum that was written by the GNSO small team to the council.

Those data will be regularly reported on the icann.org website once the system launches. As for the question about the mechanisms to allow for confidential law enforcement requests, I would like to remind the GAC that this is a simplified system that is intended to operate for up to two years for the purpose of data gathering so that that can be informed the discussion between the ICANN Board and the GNSO council with regards to the system for standardized access and disclosure, the SSAD.

The SSAD operational design assessment included the assessment of the identity verification feature. As noted in the EPDP phase two team policy recommendations to accredit all system users. The operational design assessment noted the high cost of such an

identity verification feature, which the small team did not recommend to include in this proof-of-concept service, which the Org is currently building.

Without such a feature of identity verification, the system was not effectively able to verify the law enforcement agencies request to trigger differentiated processing such as confidentiality. As for the last question, yes, these additional functionalities will be developed and made available from the time of the launch, which is by the end of this year. Thank you.

MANAL ISMAIL: Thank you very much, Yuko. And I see two requests for the floor. Iran, and then Brazil. Iran, please, Kavouss, go ahead.

KAVOUSS ARASTEH: Thank you, Manal. Thank you, distinguished board member. I think the denial for the request should --

MANAL ISMAIL: Kavouss, I'm so sorry, if you can please --

KAVOUSS ARASTEH: I think the denial to the request should be based on the predetermined universally agreed non discriminative and inclusive criteria, and no other criteria to be used for denial of the request.

This should be in short, it is very, very important for enforcement of the law. And then when we are talking of law, first of all, we know the law, there is no definitive article law of different countries, enforcement have different aspects, so there should be no denial based on something which is not universally agreed in a inclusive and non-discriminative manner. Thank you.

MANAL ISMAIL:

Thank you very much, Kavouss. Let me also take Brazil, and then we can see if there is a reaction from the Board. Brazil, please go ahead, Lucian.

LUCIANO MAZZA:

Thank you, Manal. Lucian. No, it's a quick question just to confirm that the current state the projects will be implemented free of charge, because there's an issue that discussed previously, I think later on, we didn't get back to that point. Thank you.

BECKY BURR:

Yes, the system is free of charge. And Kavouss, I understand exactly what you're saying. The problem is, and this is a fundamental problem, that every registrar receiving a request for access will be required, where they're subject to law that requires these, they will be required to conduct a balancing test and to determine at whether the release of data in response to the request is justified on the basis of a legitimate interest.

That is not a decision that the system will make, that system the decision will be made by the individual registrar who is the comptroller of the data and subject to data protection law. So I understand exactly what you're asking for, I think that there are lots of people in the community who feel as you do that, there should be clearly defined grounds for-- you should be able to tell whether the request is going to be accepted or rejected.

But that is not the way the data protection law works generally so that that individual registrars who are on the hook for compliance with data protection law will make a decision about whether the release complies with law.

MANAL ISMAIL:

Thank you very much, Becky. And I think we're good to move on to the following slide. And the fourth topic on ICANN's Emergency Assistance Program. The GAC would appreciate further information regarding expected dates and the program design developments to better understand the initiative, its scope, criteria, implications, and modalities of implementation, including potential partners. Also, during ICANN75 in Malaysia, the possibility of ICANN developing a more structured assistance and cooperation program was suggested. Does the anticipated program include this concept? Thank you.

TRIPTI SINHA: Thank you, Manal. As you know, this is a program that's been developed and implemented by ICANN organization, and Sally Casterton who is to answer this, and she, I believe, has left the room because she was double booked. So I'm going to ask Mandy, could you response on behalf of her, or Theresa, if one of you could respond on behalf of Sally? To put you on the spot?

MANAL ISMAIL: If Sally is not there, and you would like-- okay. Thank you, Mandy.

MANDY CARVER: I am not going to speak for Sally. We are in the process of having completed the framework, there will be a request. There'll be an RFP, but the intent is to have a, and I'm trying to see, the questions rolled past, a structured assistance and cooperation program is suggested.

Yes, what we're looking for is a partner or partners who are in the position to help, and I apologize that I don't have the language of the RFP in front of me. But can we say that we will come back to you with a definitive written statement, rather than my misrepresenting, or potentially over or under promising what's in process. Thank you.

MANAL ISMAIL: Sure. Thank you very much, Mandy. Yet, I can see requests for the floor. Iran, is this an old hand or a new one, I'm sorry? A new one?

KAVOUSS ARASTEH: A new one.

MANAL ISMAIL: So I have Iran and then Brazil. Please, go ahead.

KAVOUSS ARASTEH: When we prepare this question, I have commented on that, and the comment is that while we fully agree with this, but assistance of the ICANN for emergency cases are limited to certain area because you don't have any infrastructure. If there is earth quake, that is Tsunami, the whole infrastructure will be damaged, there will be no way that you need to work with your counterpart, ITU, International Telecommunication Union, that they have measures and approaches, in this case, to provide at least infrastructure in order to enable ICANN to provide DNS or any other approach.

So we need to take into account these mutual collaboration between the two organization that we indicated in this very country, or rather in Mexico in 2010d due to a collaboration. So I think that in case, by case, you need to see the collaboration and assistance of

the ITU as well, in order to provide temporary infrastructure enabling you to do any other type of assistance. Thank you.

MANAL ISMAIL: Thank you very much, Iran. Brazil, please. And if we can keep it brief, because there is one more topic. Go ahead.

LUCIANO MAZZA: Thank you, Manal. Yes, just to thank the first reaction on this topic, and just to help guide additional comments that the Board can make on the on this issue. I think the question is, I understand that you're breathing new territory here, and so it's something that is new in every respect.

When we were in Malaysia, we had suggested that something more in addition to this emergency, something more, let's say, this focus on emergency situations, something more structured could be considered in terms of cooperating in other cases. That's why I have this question here. I just wanted also to add the two points, and if there's any idea of what's the budgetary ticket for these initiatives, there's an idea of how much money will be involved in this process. And again, along the lines of Kavouss, perhaps would be interesting to engage with international organizations that have more experience in those issues, and perhaps something more long term or some kind of MoU considering engaging the ITU, for instance, in

some kind of more structure cooperation for those sorts of programs. Thank you.

MANAL ISMAIL: Thank you very much, Brazil. And I see you triggered responses. If we can keep it briefly, because there is one more topic. Please, Tripti.

TRIPTI SINHA: Thank you. So I'm going to first turn it over to Theresa, and then Mandy, if you could come in right after Theresa. Thank you.

THERESA SWINEHART: Thank you very much. This actually involves several functions within the organization and coordinating some of the next steps around this, not only building on the current situations that we've seen, but as has been pointed out, the opportunities also in looking at each situation from a unique standpoint, and opportunities of different partnerships around that, or utilizing third parties. So we'd like to come back with a more full response on that as well. Thanks.

MANDY CARVER: And just very briefly, we actually agree with the comments as they've been submitted, the program aims to positively impact the security, stability and resilience of the internet, and management of the unique identifiers so that we're staying within our

responsibilities by making funds available to maintain accessibility where operators or other relevant actors might otherwise not have the resources to do so.

This is, as Theresa has referenced, to look at individual situations. So there were a variety natural and manmade disruptions that take place. Interested third parties are expected to submit their responses to the call for expressions of interest by the 27th of March 2023. We have previously been collaborating with the coalition that exists within the UN and the IGOs because they have the capacity to go in, and there is a specific group that does this support, but we're not going to limit ourselves only to that, there'll be an expression of interest.

Currently, a total of \$1 million is expected to be budgeted for each ICANN fiscal year. We'll engage ICANN Org, we'll engage in discussions with the third parties to discuss needs and priorities, and that will inform the frequency and the amount of each contribution because it is going to vary. But we'll come back with more details.

MANAL ISMAIL:

Thank you very much, Theresa, and thank you very much, Mandy. And for the sake of the transcripts, the last speaker was Mandy. And we look forward to following up with Org this topic of interest to the GAC. If we can go to the last topic, and it's on curative rights protections for intergovernmental organizations.

And the board recently received the staff summary of public comments on EPDP on specific curative rights protection for IGOs. Some commentators expressed support, a few noted specific concerns, including potential consequence for registrants should IGOs not be required to submit to a court jurisdiction. In receiving the staff summary of public comments on the final report, is the board aware that first, the recommendations specifically state that a complaint must also include a notice informing the respondent of its right to challenge a UDRP or URS decision by filing a claim in court?

The BC ICA participated in the EPDP, and the recommendations received a full consensus designation, and the GNSO councils vote to approve the EPDP recommendations was unanimous. Of course, noting that there was full consensus for the five recommendations of the EPDP, the GAC supports timely implementation of these recommendations. And I'll stop here. Shall I hand this to you, Tripti?

TRIPTI SINHA:

Thank you, Manal. I'm going to turn this over to Becky.

BECKY BARR:

Thank you. First of all, I want to say thank you very much to the GAC members and IGO representatives who worked so hard with the GNSO to come up with a very good policy outcome here on these curative rights. We're very pleased, and we share your interest in

getting the curative rights implemented as quickly as possible. I don't think that it's a huge lift, but obviously there is some implementation to be done. And so, there will be an implementation plan coming forth, and I'm sure that there will be questions that people will want to ask of the participants, including the IGO representatives here at the GAC.

I just want to take one second to talk about the other sort of outstanding string on the IGO acronyms issue. As you know, the GAC advised us quite some time ago, and this is a very long process, so there's a possibility this was overtaken by events. But the GAC did provide advice to the Board to provide a permanent pre-registration notification system on IGO acronyms.

The Board said in 2020, result in 2020, that it did not believe that that was appropriate, and indicated that intended to ask Org to build a post notification, post registration notification system, and that the strings would be released once the post notification system was up. Now, obviously, we need to get the curative rights implemented as well, but one question we have is whether that advice to provide a pre-registration notification system is still the GAC's position, because if it is, we need to initiate the bylaws mandated process.

The other thing, though, is that the system, the post notification system isn't built yet. And we know that there are calls to have some

of these strings released, including calls from IGOs themselves. And so, we would like to initiate a conversation, and we have asked the GNSO to come up with some brainstorming on ways that these strings in the meantime, while the curative rights policy recommendations are being implemented.

And while the post registration notification system is being built, if there are equitable ways that do not override other legitimate interests to release strings, for example, to the IGOs themselves, to trademark holders, or in other cases that are appropriate. So we're going to look for creative ways to get strings that people think are appropriate to get out and to get registered, available before registration for those purposes as soon as possible.

MANAL ISMAIL:

Thank you very much, Becky. And I have Brian from WIPO, and then Iran. But please, we're already over time, so please keep it brief. Thank you, Brian, please go ahead.

BRIAN BECKHAM:

Thank you, Becky. And for IGOs, and I think for a lot of people following this topic, it's encouraging to hear the positive signals that we hope to move towards implementation. I've been speaking with people during this meeting to try to grease the wheels for that effort.

In terms of the topic, and sorry, one idea, just to mention could be a couple of dedicated days prior to the next meeting in June where the implementation team could get together and really hammer out some of this work so that there's no further delays in the process. In terms of the pre-notification, that's well noted, and I seem to recall that during one of the BTIG calls, this was discussed and agreed that this was overtaken in effect.

And so the advice concerning that would need to be amended. I've been trying to work with support staff to see if there's a record of that. If not, then suffice it to say, it's on our radar, and that will be subject of amended advice. I don't think it'd be possible for this meeting, but certainly that's on the radar. Thank you.

TRIPTI SINHA: Thank you very much. That'd be great.

MANAL ISMAIL: Thank you. Iran, please briefly.

KAVOUSS ARASTEH: Thank you very much. Almost similar what Brian mentioned, but this pre-registration, which I'm surprised, or not, going ahead by the Board and going to the post-registration was before this process of recommendations. So I don't think that we should come back to that and perhaps request distinguished board members not to re-

emphasize the post registration only, because that may be taken care by the five recommendations, and so on, and so forth, [01:05:53 - inaudible].

But in reality, GAC at that time was not in favor of deletion of this pre-registration. The post-registration notification means in French here, it says that fait accompli, which is not good. We have to have this pre-registration to be aware what is going on. But I think this has been taken by five recommendations, so we need to look at that one and to see to what extent and maybe review to what you were deciding two years ago. Thank you.

MANAL ISMAIL:

Thank you very much. And I think we are on the same page from this, Becky, so apologies for exceeding the time. I just did not want to react to the kind words of Tripti so that we don't ruin the whole session. But I just want to tell you that it has been a great experience working on the board. It's thrilling, challenging, but very rewarding, and I truly appreciate working with each and every one of the board members, and I wish you all the best, and I'm sure you could enjoy it as much as I did. So thank you, everyone. Thanks. To GAC colleagues, please be back at half past so that we can start the communique drafting. Thank you.

[END OF TRANSCRIPTION]